



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

DEC 21 2009

Handwritten:
Done to Bona
12/21/09
C. Bona

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7009 1680 0002 2842 4845)

Craig Swagerty
General Manager
EXPO New Mexico
P.O. Box 8546
Albuquerque, NM 87198

Re: Clean Water Act, Section 308 Request for Information Regarding Municipal
Separate Storm Sewer System and Permit Application

Dear: Mr. Swagerty:

It has come to our attention that discharges of municipal storm water from the New Mexico State Fairgrounds are not authorized by a Municipal Separate Storm Sewer System (MS4) permit under the National Pollutant Discharge Elimination System (NPDES). We would appreciate your assistance in confirming the applicability of the NPDES permit requirements regarding the Fairgrounds.

Unless New Mexico EXPO can provide evidence that it is not the owner or operator of the municipal separate storm sewers (as defined at 40 CFR 122.26(8)) on the New Mexico State Fairgrounds, under the authority of section 308 of the Clean Water Act (Office of Management and Budget Information collection request No. 2040-0086) a Notice of Intent for coverage under NPDES Permit No. NMR040000 must be submitted by May 1, 2010. In addition, written confirmation of notice of local public availability of the draft Notice of Intent documents as required by Part 1.2.3 of the permit must be submitted by March 1, 2010. Due to bacteria impairment in the Rio Grande, the storm water management program must include a pollutant reduction plan component identifying and addressing sources of potential bacterial contamination of stormwater, including animal waste management, illicit discharge detection and elimination, etc. A copy of the permit and guidance on development of storm water management programs are available on-line at: <http://www.epa.gov/region6/water/npdes/sw/sms4/index.htm> and <http://cfpub1.epa.gov/npdes/stormwater/munic.cfm>.

Under 40 CFR 122.32, all operators of municipal separate storm sewer systems located within the Albuquerque Urbanized Area were required to apply for a permit for the discharge of storm water by March 10, 2003. The following information is required for EPA to confirm your status under NPDES permitting regulations. Therefore, under the authority of section 308 of the Clean Water Act (Office of Management and Budget

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Information collection request No. 2040-0086) you must respond, within thirty (30) days of the date of this letter, to confirm or dispute the following points:

1. The New Mexico State Fairgrounds is located within the City of Albuquerque and the Albuquerque Urbanized Area, but is not annexed into the corporate boundary of the city; therefore, the storm sewer system serving the Fairgrounds is a regulated small MS4. Please confirm whether the Fairgrounds is or is not legally excluded from the corporate boundary of the city, as this determines whether the Fairgrounds would be a small MS4 as defined at 40 CFR 122.26(b)(16) or part of a large MS4 as defined at 40 CFR 122.26(b)(4).
2. EXPO New Mexico owns and/or operates a system of municipal separate stormwater conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) serving the New Mexico State Fairgrounds. If owned by EXPO New Mexico, but operated by another entity, please provide the name and contact information for that entity. Note that a municipal separate storm sewer system, as defined at 40 CFR 122.26(b)(8) includes those owned or operated by a State or other public body created by or pursuant to State law.
3. During storms of sufficient intensity or duration, runoff leaving the Fairgrounds would directly, or indirectly via interconnections with City of Albuquerque storm sewers, reach a water of the United States.
4. EXPO New Mexico has not applied for a MS4 permit for the New Mexico State Fairgrounds in accordance with 40 CFR 122.26(e)(3) if located within the corporate boundary of the City of Albuquerque or 40 CFR 122.23(e)(9) if not within the corporate boundary of the City of Albuquerque.

If you have any questions, please feel free to contact me, or have your staff contact Brent Larsen at 214-665-7523 (larsen.brent@epa.gov) or Suzanna Perea at 214-665-7217 (perea.suzanna@epa.gov).

Sincerely yours,


for Claudia V. Hosch
Associate Director
Water Quality Protection Division

cc: Glenn Saums, NMED